

**United States Department of Labor
Employees' Compensation Appeals Board**

SHERRY TEEL, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Tampa, FL, Employer**

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**Docket No. 04-1347
Issued: October 18, 2004**

Appearances:

Capp P. Taylor, Esq., for the appellant

Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Alternate Member
WILLIE T.C. THOMAS, Alternate Member
A. PETER KANJORSKI, Alternate Member

JURISDICTION

On April 27, 2004 appellant filed a timely appeal of the Office of Workers' Compensation Programs' merit decision dated March 26, 2004, which denied modification of a decision terminating wage-loss compensation effective July 23, 2001 and found that her additional medical conditions were not causally related to her accepted employment injuries. Under 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUES

The issues are: (1) whether the Office properly terminated appellant's wage-loss compensation effective July 23, 2001 on the basis that her accepted conditions of left shoulder and right ankle sprains had resolved; and (2) whether appellant's additional conditions of an emotional condition and reflex sympathetic dystrophy (RSD) or complex regional pain syndrome are causally related to the January 20, 2001 employment injury.

FACTUAL HISTORY

On January 20, 2001 appellant, then a 38-year-old mail processor, fell down the sack hole used for depositing mailbags onto a conveyor belt.¹ Appellant stopped work the same day and has not returned. The Office accepted appellant's claim for left shoulder and right ankle sprains. Appellant received appropriate benefits and was placed on the periodic rolls.

In a February 27, 2001 report, Dr. Stuart A. Goldsmith, an orthopedic surgeon and appellant's treating physician, noted appellant's complaints of pain throughout her body and the lack of success with physical therapy because of her inability to tolerate even light touch. He advised that he saw nothing which would cause appellant to have this much pain secondary to her injury, which was approximately five weeks old, and recommended that she see a psychiatrist. In a March 29, 2001 report, Dr. Goldsmith noted that appellant had symptoms of pain in her right leg, such as cold and spasms, and was still having pain in her left shoulder and experiencing headaches. A neurological consultation was recommended.

In a May 10, 2001 report, Dr. Goldsmith noted that appellant's complaints pertaining to leg coldness, headaches and left shoulder remained the same and that her physical examination was unchanged. He opined that there was supratentorial overlay to much of her symptoms. He opined that she reached maximum medical improvement and, as he had nothing further to offer her, discharged her from medical treatment. In a May 15, 2001 note, Dr. Goldsmith advised that appellant had reached maximum medical improvement on May 10, 2001 and was released to full active duty without restrictions.

By letter dated June 22, 2001, the Office issued a proposed notice to terminate appellant's compensation on the basis that she no longer had any residuals or continuing disability due to her January 20, 2001 employment injuries. Appellant was given 30 days to submit additional evidence or argument. However, no response was received from appellant.

In a July 20, 2001 decision, the Office finalized the termination of benefits effective July 23, 2001 on the basis that appellant no longer had any residuals or disability causally related to her January 20, 2001 employment injuries.

On August 3, 2001 appellant requested an oral hearing, which was held on December 11, 2001. Numerous medical reports were submitted.

In a May 29, 2001 report, Dr. Rafael Rodriguez, a neurologist, diagnosed chronic headaches of uncertain etiology. He noted there was very little correlation between appellant's symptoms and objective findings. He opined that neurologically there was no reason why appellant could not work.

In an August 24, 2001 report, Dr. Jeffrey D. Cooper, a Board-certified physiatrist, provided an impression of status post fall with left ankle sprain and left shoulder sprain and possible development of RSD and sympathetic pain involvement, cervical and lumbar sprains,

¹ The Office, in its March 26, 2004 decision, noted that appellant fell approximately 3 feet while, it had previously stated in its March 4, 2003 and February 26, 2002 decisions that she fell approximately 20 feet.

myofascial pain with muscular tension headaches and depression. No opinion was provided on whether the present condition was related to the employment injury. In a September 24, 2001 report, Dr. Cooper advised that the magnetic resonance imaging (MRI) scan of appellant's left shoulder was negative. In an October 9, 2001 report, Dr. Cooper approved appellant for light-duty work with no lifting more than 10 pounds.

In an October 4, 2001 report, Dr. V.I. Batas, a Board-certified physiatrist, advised that appellant had an essentially negative work-up and that she may have a significant amount of psychological overlay. Dr. Batas recommended that appellant undergo a psychiatric evaluation and obtain a thermogram of the upper and lower extremities along with a total body bone scan.

In a December 4, 2001 report, Dr. Stephen J. Szabo, a psychiatrist, provided an impression of somatization disorder, personality disorder, diabetes mellitus and chronic pain disorder. Dr. Szabo concluded that appellant was reacting to her life being upset by this accident and advised that her preexisting attitude and outlook, low self-esteem and chronic anxiety all helped set her up for this psychological reaction to this injury. Dr. Szabo further advised that appellant was not ready to return to work.

In a January 2, 2002 report, Dr. Szabo opined that appellant suffered from a somatization disorder caused by the traumatic injury as there was nothing in her history or any findings upon examinations which would indicate that this condition existed prior to her fall of January 20, 2001. He opined that appellant had been temporarily totally disabled from an emotional aspect since the time of the injury and that she was emotionally totally disabled.

In a February 14, 2001 report, Dr. P.C. Zala, a Board-certified neurologist, provided an impression of post workmen's compensation-related injury headaches, neck and extremity pain. On neurological examination, no evidence was found of any epidural hematoma, subdural hematoma, myelopathy or radiculopathy. A previous cervical spine MRI scan dated February 4, 2000 was noted to have shown some dessication of the disc at various levels. Dr. Zala opined that, from a neurological point of view, he could not help this particular situation given the complexity as well as the intensity of the pain.

By decision dated February 26, 2002, the Office hearing representative affirmed the July 20, 2001 decision. The hearing representative further found that appellant failed to meet her burden of proof that her emotional condition was causally related to the accepted employment injury.

In a January 2, 2003 letter, appellant's attorney requested reconsideration and submitted additional evidence.² In an April 22, 2002 report, Dr. Batas reported that the lumbosacral and lower extremity thermogram of that date was abnormal with significant asymmetry in the temperature distribution with right lower extremity generally appearing cooler on the thermogram compared to the left. A differential diagnosis of complex regional pain syndrome, formerly known as RSD was provided and clinical correlation was recommended.

² Also submitted were treatment notes dated May 2 through October 16, 2002 from a physician whose signature was illegible and a partial undated report from an unknown source which stated that appellant sustained a head injury as a result of her employment injury.

In a May 28, 2002 medical report, Dr. Dario A. Grisales, a physician specializing in pain management, noted the history of injury and appellant's medical treatment. His diagnostic impressions included appellant's complaints of intermittent excruciating headaches associated to sensory stimulation of unknown etiology which started after the job-related injury; complaints of left shoulder pain consistent with myofascial pain syndrome of the left shoulder and possibly associated to rotator cuff tear with elements of complex regional pain syndrome of the left hand; complaint of right lower extremity pain with elements of complex regional pain syndrome, Type 1; symptomatology aggravated by psychosocial issues; and depression. Dr. Grisales concluded that appellant had significant multiple areas of pain symptomatology in which etiology was not well defined and which had some elements of complex regional pain syndrome, mainly of the right lower extremity.

In an August 7, 2002 report, Dr. Grisales noted that the thermogram report was positive for the right lower extremity for complex regional pain syndrome, but was not conclusive on the left upper extremity. Dr. Grisales advised that there was a great possibility of a complex regional pain syndrome Type 1 of the left upper extremity and the right lower extremity. In attending physician's reports of August 15 and September 16, 2002, Dr. Grisales diagnosed neuropathic pain and complex regional pain syndrome. He opined that such conditions were causally related to or aggravated by her employment activities as her complaints started after the fall at work. Dr. Grisales further opined that appellant was totally disabled.

In a May 6, 2002 report, Dr. Walter E. Afield, a Board-certified psychiatrist, completed a neurobehavioral assessment and concluded that the results were indicative of a post-traumatic stress disorder. In a May 21, 2002 report, Dr. Afield evaluated the case records, which included noting the history of injury and appellant's subsequent course of medical treatment and the result of the recent thermogram. On May 22, 2002 he completed vocational testing. In a July 3, 2002 report, Dr. Afield summarized Dr. Szabo's records and opined that Dr. Szabo's records confirmed his clinical findings that appellant has a chronic pain disorder. He opined that appellant was not at maximum medical improvement. In additional progress notes, Dr. Afield opined that appellant had brain damage and that her condition was deteriorating.

By decision dated March 4, 2003, the Office affirmed that appellant was not entitled to wage-loss compensation, but modified such decision to reflect that appellant remained entitled to medical benefits from the effects of her work-related injury of January 20, 2001. The Office found that, while Dr. Goldsmith's May 10, 2001 report had released appellant to her full regular duties with no limitation, his report did not support that she no longer had residuals of the employment-related condition which required further medical treatment as he found that her symptoms remained the same and that her physical examination was unchanged.

In a January 15, 2004 letter, appellant's attorney again requested reconsideration and submitted additional evidence. Progress notes from Dr. Grisales and Dr. John E. Barsa, a physician specializing in pain management, dated January 13 through March 17, 2003 and office visit follow-ups were received which reported that appellant had complex regional pain syndrome Type 1 of the left upper extremity; complex regional pain syndrome of the right lower extremity and a goiter with tracheal deviation. In a September 15, 2003 report, concerning appellant's physical capacity, Dr. Grisales advised that appellant had complex regional pain syndrome of the left upper extremity and right lower extremity and chronic headaches.

Dr. Grisales opined that appellant could work with limitations but advised that her pain increased with motion, her headaches with photophobia/allodymia were incapacitating and her medications impaired reflexes and judgment.

In a December 5, 2003 report, Dr. Grisales indicated that he first saw appellant on May 28, 2002 and was familiar with her injury of falling down a chute of around 20 feet and landing on her right foot on the conveyor belt. He advised that appellant had developed a complex regional pain syndrome Type 1 of the left upper extremity and the right lower extremity and disabling headaches associated with photophobia and marked allodynia of the head and scalp as a result of her work-related fall. He advised that this characteristic pain would not present as an aggravation and there was no history in the medical records or as given by the claims examiner or appellant as to these physical problems preceding the fall from work. He further stated that, at this point, appellant also presented cognitive deficits, which is more likely than not a permanent condition. Dr. Grisales opined that appellant's potential for recovery was minimal and stated that he did not believe that she could perform a full range of sedentary activities on a full-time basis. He further noted that there was an additional nonexertional component to her restrictions from an emotional standpoint and from a standpoint of the medications which she is on.

Additional reports were also received from Dr. Afield. In a September 16, 2003 form report, Dr. Afield opined that appellant was totally disabled by answering "yes" to questions pertaining to appellant's emotional psychological impairments. Progress notes dated February 17 through July 22, 2003 advised that the thyroid function scan was normal but that appellant's condition was deteriorating as she had an advanced case of RSD and profound depression. She was noted to be at maximum medical improvement on February 17, 2003.

By decision dated March 26, 2004, the Office affirmed its prior decision relating to termination of wage-loss compensation. The Office further found that appellant's additional disability was not a result of her accepted conditions.

LEGAL PRECEDENT -- ISSUE 1

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation benefits.³ After it has determined that an employee has disability causally related to his or her federal employment, the Office may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.⁴ The Office's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁵ However the right to medical benefits for an accepted condition is not limited to the period of entitlement to compensation for wage loss due to disability.⁶ To terminate authorization for medical treatment,

³ *Gloria J. Godfrey*, 52 ECAB 486 (2001).

⁴ *Lynda J. Olson*, 52 ECAB 435 (2001).

⁵ *Manuel Gill*, 52 ECAB 282 (2001).

⁶ *Furman G. Peake*, 41 ECAB 361, 364 (1990).

the Office must establish that appellant no longer has residuals of an employment-related condition which require further medical treatment.⁷

ANALYSIS -- ISSUE 1

Appellant received wage-loss compensation for total disability from April 9 through July 23, 2001, based on the opinions of her attending physician, Dr. Goldsmith, for the accepted conditions of sprains of the left shoulder and right ankle.⁸ However, Dr. Goldsmith released appellant to full, unrestricted duty on May 15, 2001 stating that he had nothing further to offer appellant, noting that her complaints and physical examination remained unchanged and that maximum medical improvement had been reached on May 10, 2001.

The medical evidence of record is consistent in showing that appellant had no objective findings of disability at the time of the termination. Dr. Goldsmith's reports are thorough and complete in reporting negative results of physical examination and diagnostic studies. He unequivocally concluded that appellant had no continuing disability and that she could return to full duty. Dr. Goldsmith's reports, thus, represents the weight of the medical evidence in showing that appellant is no longer disabled from her employment injuries of sprains of the left shoulder and right ankle.

Accordingly, as there was no evidence at the time of termination that appellant was disabled from the accepted conditions, the Office met its burden of proof in terminating her wage-loss compensation benefits.

LEGAL PRECEDENT -- ISSUE 2

A claimant seeking benefits under the Federal Employees' Compensation Act⁹ has the burden of establishing the essential elements of her claim by the weight of the reliable, probative and substantial evidence, including that any specific condition or disability for work for which

⁷ *Franklin D. Haislah*, 52 ECAB 457 (2001).

⁸ In this case, the Office originally terminated authorization for medical treatment in its July 20, 2001 decision based on Dr. Goldsmith's May 10, 2001 medical report and medical certificate of May 15, 2001. However, in its March 4, 2003 decision, the Office modified its determination pertaining to medical treatment. Accordingly, the issue of whether appellant is entitled to authorization for medical treatment will not be addressed as it is not in dispute.

⁹ 5 U.S.C. § 8101 *et seq.*

she claims compensation is causally related to the employment injury.¹⁰ Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.¹¹

ANALYSIS -- ISSUE 2

In support of continuing disability, appellant submitted numerous reports from various physicians. However, none of the additional evidence submitted supports that appellant was totally disabled from either the accepted conditions or the January 20, 2001 employment injury. In his August 24, 2001 report, Dr. Cooper provided an impression of “possible” development of RSD in conjunction with appellant’s left ankle sprain and left shoulder strain. However, Dr. Cooper did not provide a definitive diagnosis supported by objective evidence. Moreover, he opined that appellant was capable of light-duty work. Dr. Cooper’s additional diagnoses of cervical sprain, lumbar sprain, myofascial pain with muscular tension headaches and depression were not supported by objective evidence and contained no medical rationale causally relating those conditions to the employment injury of January 20, 2001.

Dr. Zala noted an impression of a “very acute pain syndrome” from “post workmen’s compensation-related injuries;” however, he failed to provide a definitive diagnosis or provide any rationale which causally related such “pain syndrome” to either the accepted employment conditions or the January 20, 2001 employment injury.

Drs. Batas, Barsa and Grisales had reported that appellant had complex regional pain syndrome or RSD of the left upper extremity and of the right lower extremity. In his April 22, 2002 report, Dr. Batas provided a differential diagnosis of complex regional pain syndrome based on a thermogram but failed to provide an opinion on causal relationship or provide sufficient medical rationale explaining how and why this condition would arise more than a year after the January 20, 2001 injury. Likewise, Dr. Barsa failed to provide any medical rationale for his diagnosis. The Board has held that medical reports not supported by medical rationale are of limited probative value.¹²

In his August 15 and September 16, 2002 attending physician’s reports and in his December 5, 2003 report, Dr. Grisales opined that appellant had developed neuropathic pain, complex regional pain syndrome of the left and right upper extremities and disabling headaches associated with photophobia and marked allodynia of the head and scalp as a result of her work-related fall and was totally disabled as a result of those conditions. He rationalized that such conditions were causally related to or aggravated by her employment activities as her complaints started after the fall at work and there was no history of these problems preceding the fall from

¹⁰ *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

¹¹ See *Robert G. Morris*, 48 ECAB 238 (1996). A physician’s opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and the claimant’s specific employment factors. *Id.*

¹² *Lucrecia M. Nielson*, 42 ECAB 583 (1991).

work. The Board has held that, when a physician concludes that a condition is causally related to an employment because the employee was asymptomatic before the employment injury, the opinion is insufficient, without supporting medical rationale, to establish causal relationship.¹³ Although Dr. Grisales noted that the thermogram report was positive for the right lower extremity for complex regional pain syndrome and advised that this “characteristic pain” would not present as an aggravation, he did not explain how the complex regional pain syndrome was related to the January 20, 2001 work injury. Dr. Grisales opined that there was a causal relationship, but he did not support his statement with medical rationale. Medical rationale is especially important in this case because appellant began treatment with Dr. Grisales in May 2002 and a definitive diagnosis was not rendered until August 2002, almost a year and a half after the date of appellant’s original injury. An opinion that a work-related injury almost a year and a half prior causes disability or another condition must be based on bridging evidence between the injury and the disability.¹⁴ Dr. Grisales does not explain how appellant’s accepted conditions of left shoulder and right ankle sprains developed into her current condition. He did indicate that this “characteristic pain” would not present as an aggravation. This statement, however, is only a general statement and does not address appellant’s specific situation. Thus, while supportive of appellant’s claim, Dr. Grisales’s opinion is of diminished probative value because it lacks sufficient medical rationale to establish that the incident of January 20, 2001 caused or contributed to a complex regional pain syndrome or disabling headaches.¹⁵

Appellant’s attorney has argued that appellant’s disabling emotional condition and RSD constitutes a consequential injury. The general rule respecting consequential injuries is that when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury similarly arises out of the employment unless it is the result of an independent intervening cause. An employee who asserts that a nonemployment-related injury was a consequence of a prior employment-related injury has the burden of proof to establish that such was the fact.¹⁶ The Board notes that, although Dr. Goldsmith had recommended that appellant undergo a psychiatric consultation, he did not state that the referral was necessitated by the employment injury. Moreover, the Office has not accepted an emotional condition in this case.

In this case, the record contains insufficient medical evidence to establish a consequential causal relationship between appellant’s emotional condition and the RSD and the accepted work injuries. Dr. Szabo’s December 4, 2001 and January 2, 2002 reports found that appellant was totally disabled emotionally from a somatization disorder caused by the traumatic work injury as she had nothing in her history or any findings upon examination which would indicate that her condition existed prior to her fall of January 20, 2001. Additionally, the physician opined that

¹³ *Cleopatra McDougal-Saddler*, 47 ECAB 480, 489 (1996).

¹⁴ *Alfredo Rodriguez*, 47 ECAB 437 (1996).

¹⁵ In addition, the Board notes that because the Office determined that appellant still suffers from residuals of the accepted shoulder and right ankle sprains and because any causal relationship to other possible conditions is not yet established, it cannot be said without speculation that the complex regional pain syndromes and disabling headaches to which Dr. Grisales refers arose from appellant’s federal employment.

¹⁶ *See William F. Gay*, 50 ECAB 276 (1999).

appellant had a psychological reaction to this injury due to her preexisting attitude and outlook, low self-esteem and chronic anxiety. However, as previously stated, when a physician concludes that a condition is causally related to an employment because the employee was asymptomatic before the employment injury, the opinion is insufficient, without supporting medical rationale, to establish causal relationship.¹⁷ Dr. Afield attributed appellant's disability to her emotional condition and RSD, which are not accepted conditions in this case. As Dr. Afield did not attribute appellant's emotional condition or RSD to her accepted employment injuries, his report is insufficient to establish a consequential injury. Accordingly, the evidence of record is insufficient to discharge appellant's burden of establishing that her emotional condition and RSD were consequential injuries of the accepted left shoulder and right ankle strains.

CONCLUSION

The Board finds that the Office properly terminated appellant's wage-loss compensation effective July 23, 2001 on the grounds that she no longer had any disability causally related to her January 20, 2001 employment injuries. The Board further finds that appellant has failed to establish that she sustained any additional conditions such as RSD and an emotional condition causally related to her employment injuries.

ORDER

IT IS HEREBY ORDERED THAT the March 26, 2004 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 18, 2004
Washington, DC

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

¹⁷ *Cleopatra McDougal-Saddler, supra* note 13.